



# Proposals for a Congressional Commission on the Financial Crisis: A Comparative Analysis

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## Summary

This report provides a comparative analysis of six proposed congressional advisory commissions that would investigate various aspects of the recent financial crisis and economic downturn. The report specifically discusses (1) the membership structure, (2) appointment structure, (3) rules of procedure and operation, (4) duties and reporting requirements, (5) powers of the commission, (6) staffing issues, and (7) funding. **Tables 1 through 7** (at the end of the report) summarize major provisions of the six proposals.

The six proposed commissions are found in Senate amendment 995 to S. 386 (sponsored by Senator Isakson); S. 195 (the “Taxpayer Protection Act,” sponsored by Senator Dorgan); S. 298 (the “Financial Markets Commission Act of 2009,” sponsored by Senator Isakson); H.R. 74 (the “Financial Oversight Commission Act of 2009,” sponsored by Representative Issa); H.R. 768 (the “Commission on Financial Crisis Accountability Act of 2009,” sponsored by Representative Larson); and H.R. 2111 (the “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” sponsored by Representative Burgess).

The overall structures of each of the proposed commissions are similar in many respects, both to each other and to previous independent advisory entities established by Congress. Specifically, the proposed commissions (1) exist temporarily; (2) serve in an advisory capacity; and (3) report a work product detailing the findings, conclusions, and recommendations of the commission. That said, each particular proposed commission has unique elements, particularly concerning its membership structure, appointment structure, and timeline for reporting its work product to Congress.

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## Introduction

This report provides a comparative analysis of six proposed congressional advisory commissions<sup>1</sup> that would investigate various aspects of the recent financial crisis and economic downturn.<sup>2</sup> The six proposed commissions are found in: Senate amendment 995 to S. 386 (sponsored by Senator Isakson),<sup>3</sup> section 5 of S. 195 (the “Taxpayer Protection Act,” sponsored by Senator Dorgan),<sup>4</sup> S. 298 (the “Financial Markets Commission Act of 2009,” sponsored by Senator Isakson),<sup>5</sup> H.R. 74 (the “Financial Oversight Commission Act of 2009,” sponsored by Representative Issa),<sup>6</sup> H.R. 768 (the “Commission on Financial Crisis Accountability Act of 2009,” sponsored by Representative Larson),<sup>7</sup> and H.R. 2111 (the “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” sponsored by Representative Burgess).<sup>8</sup>

The overall structures of each of the proposed commissions are similar in many respects, both to each other and to previous independent advisory entities established by Congress.<sup>9</sup> Specifically, the proposed commissions (1) exist temporarily; (2) serve in an advisory capacity; and (3) report a work product detailing the findings, conclusions, and recommendations of the commission. That said, each particular proposed commission has unique elements, particularly concerning its membership structure, appointment structure, and timeline for reporting its work product to Congress.

For each proposal, this report discusses (1) the membership structure, (2) appointment structure, (3) rules of procedure and operation, (4) duties and reporting requirements, (5) powers of the commission, (6) staffing issues, and (7) funding. **Tables 1 through 7** (at the end of this memorandum) summarize major provisions of the six proposals.

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<sup>1</sup> For general information on congressional advisory commissions, please see CRS Report R40076, *Congressional Commissions: Overview, Structure, and Legislative Considerations*, by Matthew Eric Glassman.

<sup>2</sup> Proposals for committee or subcommittee investigations, select committee investigations, joint committee investigations, and executive branch investigations are not addressed in this report. Similarly, proposals for congressional commissions with narrower scopes (such as H.R. 1285, which proposes a commission to investigate mortgage foreclosures) are not considered here.

<sup>3</sup> Senate Amendment 995 to S. 386, agreed to 92-4 on 4/24/09. Future references in the text will refer to S. 386.

<sup>4</sup> S. 195, 111<sup>th</sup> Congress.

<sup>5</sup> S. 298, 111<sup>th</sup> Congress.

<sup>6</sup> H.R. 74, 111<sup>th</sup> Congress.

<sup>7</sup> H.R. 768, 111<sup>th</sup> Congress.

<sup>8</sup> H.R. 2111, 111<sup>th</sup> Congress.

<sup>9</sup> Two potential analogous entities are the Commission on Wartime Contracting in Iraq and Afghanistan, P.L. 110-181, § 841, 122 Stat. 230 (2008), and the National Commission on Terrorist Attacks Upon the United States, P.L. 107-306, 116 Stat. 2408 (2002).

## Membership Structure

### Size of Commission

The membership structure of each of the six proposed commissions is similar to previous independent advisory entities created by Congress. S. 195, S. 386, H.R. 74, and H.R. 768, all propose 10-person commissions; S. 298 would create a 7-member entity; H.R. 2111 would create a 5-member entity.<sup>10</sup>

In general, there is significant variation in the size of congressional advisory commissions. Among the 83 congressional commissions created between the 101<sup>st</sup> and 110<sup>th</sup> Congresses, the average number of commissioners was 12, the largest commission having 28 members and the smallest commission having five members.<sup>11</sup>

Large commissions have the potential advantage of surveying a wider range of viewpoints, arguably allowing the commission to produce a better work product. A large commission may also aid a bill's chances of legislative success, especially if a greater number of interests can participate in the appointment process or gain representation on the commission. Small commissions, however, may enjoy efficiency advantages in completing their work product; hearings and meetings are also likely to be shorter and easier to coordinate. Similarly, overall commission costs may be lower for small commissions, and travel and other expenses may be less.

### Qualifications

Requiring commission members to possess certain substantive qualifications, which has the effect of limiting the degree of autonomy in the appointing of commission membership, has been used occasionally in other legislation creating congressional commissions.<sup>12</sup> Such provisions arguably ensure that the commission is populated with genuine experts in the policy area, which may improve the final work product of the commission. On the other hand, it can be difficult to properly specify such language in legislation. If the qualifications are too precise, certain experts who could be valuable members of the commission may be excluded from consideration. If the qualification provisions are too vague, they may be difficult or impossible to enforce.

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<sup>10</sup> S. 195 § 5(b); S. 386 § 5(b); H.R. 74 § 4(a); H.R. 768 § 4(a); S. 298 § 3(a); H.R. 2111 § 2(d)(1).

<sup>11</sup> A database search of a variety of relevant terms was conducted using the Legislative Information System (LIS) for the 101<sup>st</sup> through 110<sup>th</sup> Congresses (1989-2008) to capture all congressional commissions enacted into law. The universe of data included all temporary multi-member independent entities that (1) existed temporarily, (2) were statutorily created, (3) served in an advisory capacity, (4) were appointed in part or whole by Members of Congress, and (5) reported to Congress.

<sup>12</sup> For example, statutory language may require the appointing official to select members who are specifically qualified by virtue of their education, knowledge, training, experience, expertise, distinguished service, or recognized eminence in a particular field or fields. For example, legislation establishing the United States Commission on North American Energy Freedom, P.L. 109-58, 119 Stat. 1064 (2005) prescribes that nominees for the commission must be "knowledgeable on energy issues, including oil and gas exploration and production, crude oil refining, oil and gas pipelines, electricity production and transmission, coal, unconventional hydrocarbon resources, fuel cells, motor vehicle power systems, nuclear energy, renewable energy, biofuels, energy efficiency, and energy conservation."

H.R. 2111 would place no qualifications on membership. S. 386 would provide that commission members should be “prominent U.S. citizens” with “national recognition and significant depth of expertise” in a variety of fields related to economics and finance, and would prohibit government employees, including Members of Congress, from being members.<sup>13</sup> H.R. 74 and S. 298 would provide “the sense of Congress” that commission members should be “prominent U.S. citizens” with “national recognition and significant depth of expertise” in a variety of fields related to economics and finance.<sup>14</sup> In addition, H.R. 74 prohibits federal, state, or local government employees, including Members of Congress, from serving as members of the commission.<sup>15</sup> H.R. 768 would require that commissioners have “knowledge and expertise in matters to be studied” and do not have conflicts of interest with any matter the commission would be examining.<sup>16</sup> S. 195 would require that members be U.S. citizens with expertise in a variety of fields related to economics and finance, and not have certain conflicts of interest. In addition, no more than two members of the commission may be government employees.<sup>17</sup>

## **Compensation of Commission Members**

Five proposals would provide that commission members be compensated “at a rate equal to the daily equivalent of the annual rate of basic pay for level IV of the Executive schedule”... “for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Commission.”<sup>18</sup> H.R. 2111 would provide that commission members be compensated at the daily equivalent rate of the annual rate of basic pay for level I of the executive schedule.<sup>19</sup>

H.R. 768 and H.R. 2111 would prohibit federal employees who serve on the Commission from receiving compensation.<sup>20</sup> S. 195 would prohibit all government employees who serve on the Commission from receiving compensation.<sup>21</sup> Members of all six proposed commissions would receive travel expenses, including a per diem.<sup>22</sup>

Most similar past advisory entities have not compensated their members. Those that have typically provided compensation at the daily equivalent of level IV of the executive schedule.<sup>23</sup>

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<sup>13</sup> S. 386 § 5(b).

<sup>14</sup> H.R. 74 § 4(b)(3); S. 298 § 3(b).

<sup>15</sup> H.R. 74 § 4(b)(2). It is likely that such a prohibition would preclude academic employees of state colleges or universities from serving on the commission.

<sup>16</sup> H.R. 768 § 4(b).

<sup>17</sup> S. 195 § 5(c).

<sup>18</sup> S. 195 § 5(h)(1); S. 386 § 5(f)(1); H.R. 74 § 9(a); H.R. 768 § 4(g)(1); S. 298 § 7(a). During 2009, level IV of the Executive schedule is \$153,200. Assuming an 8-hour work day, the daily equivalent rate would be \$587 per day per member. See Executive Order 13483, “Adjustments of Certain Rates of Pay,” 73 Fed. Reg. 78587, Dec. 23, 2008; 5 U.S.C. 5504 (2000).

<sup>19</sup> H.R. 2111 § 2(d)(2). During 2009, level I of the Executive schedule is \$196,700. Assuming an 8-hour work day, the daily equivalent rate would be \$754 per day per member. See Executive Order 13483, “Adjustments of Certain Rates of Pay,” 73 Fed. Reg. 78587, Dec. 23, 2008; 5 U.S.C. 5504 (2000).

<sup>20</sup> H.R. 768 § 4(g)(2); H.R. 2111 § 2(d)(3).

<sup>21</sup> S. 195 § 5(h)(2).

<sup>22</sup> H.R. 74 § 9(b); H.R. 768 § 4(h); S. 195 § 5(i); S. 298 § 7(b); S. 386 § 5(f)(2).

<sup>23</sup> An analysis of 83 congressional advisory bodies created during the past 20 years indicates that approximately two-thirds (57) did not compensate their members, except to reimburse members for expenses directly related to their (continued...)



## Partisan Limitations

H.R. 74 would provide that not more than five members of the commission be from the same political party.<sup>24</sup> This is somewhat unusual, as most advisory entities created by Congress do not impose formal partisan restrictions on the membership structure.<sup>25</sup> It may also be difficult to assess the political affiliation of potential members, who may have no formal affiliation (voter registration, for example) with a political party. Instead, most past advisory commissions usually achieve partisan balance through the appointment structure.

## Appointment Structure

### Overview

Congressional commissions use a wide variety of appointment structures. The statutory scheme may designate specific members of the commission, such as a specific cabinet official or congressional leader. In other cases, selected leaders, often with balance between the parties, appoint commission members. A third common statutory scheme is to have selected leaders, such as committee chair and ranking Members, recommend candidates for appointment to a commission. These leaders may act either in parallel or jointly, and the recommendation may be made either to other congressional leaders, such as the Speaker of the House and President pro tempore of the Senate, or to the President.

The decisions made when devising a commission's appointment structure are not unimportant, particularly concerning Member participation as commissioners. Inclusion of legislators on such panels ensures that Congress will be able to exercise a certain degree of control over the operations or outcome of the entity concerned. At the same time, service by Members on commissions is arguably antithetical to two of the rationales for creating a commission in the first place: to reduce the workload of Congress by delegating certain functions to temporary bodies and to produce independent advice.

Even in the absence of direct membership on a commission, in drafting the particulars of an appointment scheme, legislators can dictate, to some degree, the measure of autonomy a commission enjoys. For example, although the legislation creating the National Commission on Terrorist Attacks Upon the United States (the 9-11 Commission) did not stipulate that Members of Congress be included in the commission's membership, it did call for 9 of the 10 members of the commission to be selected by congressional leaders, so that Congress would remain influential in shaping the commission. Attention to the proper balance between the number of members appointed by congressional leaders and by other individuals, or to the number of Members of Congress required to be among the appointees, or to the qualifications of appointees, can be significant factors in enabling a commission to fulfill its congressional mandate.

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(...continued)

service, such as travel costs. Among those that did compensate their members (26), almost all provided that the level of compensation would be the daily equivalent of Level IV of the Executive Schedule.

<sup>24</sup> H.R. 74 § 4(b)(1).

<sup>25</sup> The use of formal partisan membership structures is somewhat more common in executive branch regulatory commissions.

In general, a commission's appointment scheme can impact both the ability of the commission to fulfill its statutory duties and the final work product it produces. For instance, if the scheme provides only for the appointment of Members of Congress to the commission, it arguably might not have the technical expertise or diversity of knowledge to complete its duties within the time given by statute. Similarly, if the appointment scheme includes qualifying provisos so specific that only a small set of private citizens could serve on the panel, the final work product of the commission may arguably only represent a narrow range of viewpoints.

In general, all six proposals provide for similar appointment structures (see **Table 2**). In each case, most appointments are made by congressional leaders. Additionally, H.R. 74 and S. 195 provide for one appointment to be made by the President; and S. 298 includes two Presidential appointments and an appointment made by the Chairman of the Board of Governors of the Federal Reserve.<sup>26</sup> S. 386 includes four appointments made by committee chair and ranking Members.<sup>27</sup> H.R. 768 and S. 386 are notable in that they provide no executive branch appointments.<sup>28</sup>

## Partisan Balance

Most congressional commissions have been structured to be bipartisan, with either an even split of appointments between majority and minority or with a one member advantage for the majority. By achieving a nonpartisan or bipartisan character, congressional commissions may make their findings and recommendations more politically acceptable to diverse viewpoints. The bipartisan or nonpartisan arrangement can give recommendations strong credibility, both in Congress and among the public, even when dealing with divisive issues of public policy. Similarly, a commission bill that is perceived as partisan may have difficulty gathering the necessary support in Congress.

In some cases, however, seeking bipartisanship may reduce the potential legislative coalition for the bill, if supporters believe that the commission's work would be compromised by creating a bipartisan commission. Bipartisanship also can arguably impede a commission's ability to complete its mandate. In situations where a commission is tasked with studying inherently partisan issues—such as oversight of executive branch activities—the appointment of an equal number of majority and minority commissioners may serve to promote partisanship within the commission rather than suppress it.

Each of the six proposals employs a structure that provides for appointments by both the majority and minority parties in Congress. H.R. 768 and S. 386, which have only congressional appointments, include six majority appointments and four minority appointments.<sup>29</sup> H.R. 2111, which also has only congressional appointments, includes two majority appointments, two minority appointments, and one majority appointment with minority recommendation.<sup>30</sup> S. 195

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<sup>26</sup> H.R. 74 § 4(a); S. 195 § 5(b). S. 298 § 3(a).

<sup>27</sup> S. 386 § 5(b).

<sup>28</sup> H.R. 768 § 4(a); S. 386 § 5(b). Many congressionally established advisory entities, including those designed for oversight of the executive branch, provide for an appointment structure that includes presidential or other executive branch input. For example, see the Commission on Wartime Contracting in Iraq and Afghanistan.

<sup>29</sup> H.R. 768 § 4(a); S. 386 § 5(b).

<sup>30</sup> H.R. 2111 § 2(d)(1)(A)-(E).

provides for four majority and five minority appointments, as well as one Presidential appointment.<sup>31</sup> H.R. 74 provides for a specifically partisan structure, with five Democratic appointments, four Republican appointments, and one Presidential appointment.<sup>32</sup> S. 298 provides for two majority appointments, two minority appointments, two Presidential appointments, and one other executive branch appointment.<sup>33</sup>

## **Vacancies**

All six proposals provide that vacancies on the commission be filled in the same manner as the original appointment.<sup>34</sup>

## **Deadline for appointment**

Three of the bills propose specific deadlines for appointment of commissioners; S. 195 proposes a 30 day deadline from the date of enactment;<sup>35</sup> H.R. 74 and H.R. 768 propose a 60 day deadline from enactment.<sup>36</sup> H.R. 2111, S. 298 and S. 386 do not provide for an appointment deadline.<sup>37</sup> Given the quorum requirements of H.R. 2111, S. 298 and S. 386 (four of five members, four of seven members, and six of ten members, respectively), this could potentially delay official action of the commission if appointers do not make selections or if there is difficulty in finding acceptable candidates willing to serve on the panel.

Typically, deadlines for appointment can range from several weeks to several months. For example, the deadline for appointments to the Antitrust Modernization Commission was 60 days after the enactment of the act.<sup>38</sup> The deadline for appointment to the Commission on Wartime Contracting in Iraq and Afghanistan was 120 days from the date of enactment. The deadline for appointment to the National Commission on Terrorist Attacks Upon the United States was December 15, 2002, 18 days after enactment of the act.

## **Rules of Procedure and Operation**

While most statutes authorizing the creation of congressional advisory bodies do not provide detailed procedures for how the commission should conduct its business, the statutory language often provides a general structure, including a mechanism for selecting a chair and procedures for

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<sup>31</sup> S. 195 § 5(b).

<sup>32</sup> H.R. 74 § 4(a).

<sup>33</sup> S. 298 § 3(a). The non-presidential executive branch appointment would be made by the Board of Governors of the Federal Reserve.

<sup>34</sup> H.R. 74 § 4(c); H.R. 768 § 4(d); S. 195 § 5(c)(6); S. 298 § 3(e); S. 386 § 5(b)(5).

<sup>35</sup> S. 195 § 5(b)(4).

<sup>36</sup> H.R. 74 § 4(f); H.R. 768 § 4(b)(4).

<sup>37</sup> S. 298 and S. 386, however, provide for a provisional initial organizing meeting of the commission if four of the members have been appointed. S. 298 § 3(d); S. 386 § 5(b)(4).

<sup>38</sup> P.L. 107-273, 116 Stat. 1758, (2002).

creating rules.<sup>39</sup> Only S. 195 would specifically authorize the commission to establish procedural rules;<sup>40</sup> all six bills, however, would provide for certain procedural rules statutorily.

## **Chairman Selection**

Five of the proposals would provide for either a chair, co-chairs, or chair and vice-chair of the commission. H.R. 768 provides for a single chair, designated by the Speaker of the House after consultation with majority and minority congressional leaders.<sup>41</sup> S. 386 would provide for a chair and vice-chair, designated by majority and minority leaders in Congress, respectively.<sup>42</sup> S. 298 would provide that the members of the commission elect their own chair and vice-chair, with the provision that both cannot be from the same political party.<sup>43</sup> H.R. 74 would specifically designate a chair and vice chair as the members appointed by the President and the Democratic leader of the Senate, respectively.<sup>44</sup> Similarly, S. 195 would designate a chair and vice-chair as the members selected by the President and the minority leader of the Senate (in consultation with the minority leader of the House), respectively.<sup>45</sup>

H.R. 2111 does not provide for the selection of a chair. Presumably, however, the proposed commission would need to select a chair, as the legislation provides for specific duties (calling meetings; requesting information).<sup>46</sup>

## **Initial Meeting Deadline**

Two of the bills propose specific deadlines for the first meeting of the commission; S. 195 proposes a 45 day deadline from the date of enactment;<sup>47</sup> H.R. 768 proposes a 30 day deadline from the date on which all members have been appointed,<sup>48</sup> which is—given the 60 day deadline for appointment—effectively a maximum of 90 days after enactment.

H.R. 74 does not provide for an initial meeting deadline. Instead, it directs the commission to meet as “soon as practicable.”<sup>49</sup> S. 298 and S. 386 provide that members of the commission “may meet” 45 days after enactment if four members have been appointed by that time.<sup>50</sup> Under any of these guidelines, official action of the commission could be delayed if members choose not to

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<sup>39</sup> For example, the statute authorizing the National Gambling Impact Study Commission provides that the Commission may establish by majority vote any other rules for the conduct of the Commission’s business, if such rules are not inconsistent with this act or other applicable law. See P.L. 104-169, 110 Stat. 1482 (1996).

<sup>40</sup> S. 195 § 5(c)(7).

<sup>41</sup> H.R. 768 § 4(e).

<sup>42</sup> S. 386 § 5(b)(3).

<sup>43</sup> S. 298 § 3(c).

<sup>44</sup> H.R. 74 § 4(a)(1), 4(a)(2).

<sup>45</sup> S. 195 § 5(b)(1)-(2).

<sup>46</sup> H.R. 2111 § 2(d)(7); H.R. 2111 § 2(f)(3).

<sup>47</sup> S. 195 § 5(c)(5).

<sup>48</sup> H.R. 768 § 4(k).

<sup>49</sup> H.R. 74 § 4(b)(5).

<sup>50</sup> S. 298 § 3(d); S. 386 § 5(b)(4).

hold an official meeting until the commission completes its hiring and other preliminary activities. H.R. 2111 provides no deadline for an initial meeting.

## Quorum

Most commission statutes provide that a quorum will consist of a particular number of commissioners, usually a majority but occasionally a supermajority. All six bills would provide for a quorum requirement in order to conduct business. H.R. 768 would define a quorum as a majority of members.<sup>51</sup> H.R. 74, S. 195, and S. 386 would provide that a quorum be six (of ten) members.<sup>52</sup> S. 298 would provide that a quorum be four (of seven) members.<sup>53</sup> H.R. 2111 would provide that a quorum be four (of five) members.<sup>54</sup> H.R. 768 and H.R. 2111 specifically would provide that fewer than a quorum of members may hold hearings.<sup>55</sup>

## Public Access

H.R. 74 would require that hearings be open to the public and reports be made publicly available.<sup>56</sup> The other proposals would leave public access at the discretion of the commission.

## Formulating Other Rules of Procedure

Absent statutory guidance (either in general statutes or in individual statutes authorizing commissions), advisory entities vary widely in how they adopt their procedures. In general, three models exist: formal written rules, informal rules, and norms. Any individual advisory entity might make use of all three of these models for different types of decision making.

**(1) Formal Written Rules:** Some advisory entities choose to formalize their procedures for meetings and hearings. For example, the United States - China Economic and Security Review Commission<sup>57</sup> established written rules of procedure for the conduct of both meetings of the commission and for hearings held by the commission. The rules include procedures for the selection of chairs, proxy use, budgeting, expenditures of money, hiring and firing of staff, commissioner ethics, and periodic revision of the rules.<sup>58</sup> Changes to the rules require a majority vote of the commission as well as review by outside counsel.<sup>59</sup> The commission's written rules for hearings include procedures for the hearing structure, the selection of panelists, generation of questions, opening statements, and post-hearing recommendations to Congress.<sup>60</sup>

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<sup>51</sup> H.R. 768 § 4(j).

<sup>52</sup> H.R. 74 § 4(c); S. 195 § 5(c)(6); S. 386 § 5(b)(5).

<sup>53</sup> S. 298 § 3(3).

<sup>54</sup> H.R. 2111 § 2(d)(5).

<sup>55</sup> H.R. 768 § 4(j); H.R. 2111 § 2(d)(5).

<sup>56</sup> H.R. 74 § 7(b)-(c).

<sup>57</sup> See P.L. 103-698, 114 Stat. 1654A-334 (2000).

<sup>58</sup> United States-China Economic and Security Review Commission, *Commission Rules*, adopted June 6, 2003.

<sup>59</sup> *Id.* Rule 19.

<sup>60</sup> United States-China Economic and Security Review Commission, *Procedures and Responsibilities of Hearing Cochairs*.

(2) **Informal Rules:** Some advisory entities adopt set processes for establishing rules piecemeal as the need arises. For example, the National Surface Transportation Policy and Revenue Commission<sup>61</sup> did not establish formal written rules of procedure.<sup>62</sup> However, the members of the commission did take occasional votes to clarify particular meetings procedures. For example, at the first meetings of the commission, members voted by simple majority as to whether future votes of commission members could be conducted by proxy.<sup>63</sup> Although the result of this vote was used as precedent for the remainder of the commission's existence, neither the result of the vote, the rule, or the rules governing the vote itself were formalized in a written fashion.<sup>64</sup>

(3) **Norms:** Many advisory entities choose not to create formal rules for commission meetings or hearings. Instead, they rely on a collegial relationship between members and staff, and conduct the meetings in a procedurally flexible manner. In some cases, deference to the wishes of the chair is followed for procedural matters. For instance, the Congressional-Executive Commission on China does not operate within a system of formal rules of procedure.<sup>65</sup> Commission members make collective agreements about operational issues such as the recording of minutes or voting procedure, but these agreements are created and enforced by collective norms and collegial interactions, not formal action or votes.<sup>66</sup> Similarly, the National Surface Transportation Infrastructure Finance Commission<sup>67</sup> relied on member collegiality and deference to the chair and co-chair of the commission for procedural decisions.<sup>68</sup>

The choice to adopt written rules or rely on informal norms to guide commission procedure may be based on a variety of factors, such as the size of the entity, frequency of meetings, member preferences regarding formality, the level of collegiality among members, and the amount of procedural guidance provided by the entity's authorizing statute. Regardless of how procedural issues are handled, protocol for decision-making regarding the following operational issues may be important for the commission to consider at the outset of its existence: eligibility to vote and proxy rules; staff hiring, compensation, and work assignments; hearings, meetings, and field visits; non-staff expenditures and contracting; reports to Congress; budgeting; and procedures for future modification of rules.

## FACA applicability

The Federal Advisory Committee Act (FACA) mandates certain structural and operational requirements, including formal reporting and oversight procedures, for certain federal advisory bodies that advise the executive branch.<sup>69</sup> One proposal (H.R. 74) specifically exempts the

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<sup>61</sup> P.L. 109-59, 119 Stat. 1470 (2005).

<sup>62</sup> Interview with Susan Binder, former Executive Director, National Surface Transportation Policy and Revenue Commission, July 10, 2008.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Interview with Douglas Grob, Staff Director, July 10, 2008.

<sup>66</sup> *Id.*

<sup>67</sup> P.L. 109-59, 119 Stat. 1962 (2005).

<sup>68</sup> Interview with Jack Wells, staff director, July 10, 2008.

<sup>69</sup> For more information on the Federal Advisory Committee Act, see CRS Report R40520, *Federal Advisory Committees: An Overview*, by Wendy R. Ginsberg.



proposed commission from FACA.<sup>70</sup> FACA would also not apply to the commissions proposed in H.R. 768 and H.R. 2111, because they would be appointed entirely by Members of Congress and report only to Congress.<sup>71</sup> Similarly, it is unlikely that the commission proposed in S. 195 would be subject to FACA, as it reports only to Congress.<sup>72</sup> While the commissions proposed in S. 386 and S. 298 do include either executive branch appointments or reports to the President, it is unlikely that these commissions would be subject to FACA, as they would be expressly established in the legislative branch and the majority of their appointments would be made by Congress.<sup>73</sup>

## Duties and Reporting Requirements

### General Duties

Commissions established by Congress are usually statutorily directed to carry out specific tasks. These can include studying a problem, fact-finding, assessing conditions, conducting an investigation, reviewing policy proposals, crafting recommendations, and making feasibility determinations. Commissions can be generally placed into one of three categories. Most congressional commissions are *policy commissions*, temporary bodies which study particular policy problems and report their findings to Congress. Less common are *investigative commissions*, which are similar in structure to policy commissions but tasked with reviewing specific events or crises. *Commemorative commissions* are entities established to commemorate a person or event, often to mark an anniversary.

All six of the proposed commissions would be tasked with duties that are analogous to both past investigative commissions and past policy commissions. While the specific mandates differ somewhat, all six are tasked with investigating aspects of the recent financial and economic downturn, and submitting a report that includes their findings, conclusions, and recommendations for legislative action.<sup>74</sup> For a detailed comparison of specific duties, see **Table 4**.

In addition to conducting an investigation and issuing a report, several of the proposed commissions would have additional duties. H.R. 768 would require the commission to make recommendations for a shareholders bill of rights.<sup>75</sup> S. 298 and S. 386 would require the commission to refer to the Attorney General and any appropriate state attorney general any person that the commission found may have violated the law.<sup>76</sup> S. 386 also would require that the chair of the commission appear before Congress within 120 days of submission of the final report.<sup>77</sup>

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<sup>70</sup> H.R. 74 § 7(a).

<sup>71</sup> H.R. 768 § 4(a), 3(b); H.R. 2111 § 2(d)(2).

<sup>72</sup> S. 195 § 5(f). Although the reporting provisions of S. 195 require the commission only to report to Congress, under its listed “purposes” in section (a)(5), the commission is broadly asked to “report to the President and Congress.”

<sup>73</sup> S. 298 § 2, 3(a).

<sup>74</sup> H.R. 74 § 5(a); H.R. 768 § 3(a); S. 298 § 4.

<sup>75</sup> H.R. 768 § 4(c).

<sup>76</sup> S. 298 § 4(4); S. 386 § 5(c)(4).

<sup>77</sup> S. 386 § 5(g)(3).

## Reports

Each proposed commission would be tasked with issuing a final report detailing its findings, conclusions, and recommendations.<sup>78</sup> S. 195 specifically provides for the commission to submit two interim reports.<sup>79</sup> H.R. 2111 specifically provides for the commission to submit monthly reports, as well as two special reports.<sup>80</sup> H.R. 74 and S. 298 specifically provide for the commission to submit optional interim reports.<sup>81</sup> H.R. 74 also provides for a four year “continued review” period after the submission of the final report, with the commission empowered to submit additional optional reports as it determines appropriate.<sup>82</sup>

None of the bills specify any conditions for the majority threshold required for approval of the reports. Similarly, they make no provisions for the submission of minority viewpoints. Presumably this would leave the members of each commission with discretion as to the required majority needed for adoption of a report and the inclusion or exclusion of minority viewpoints. Past advisory entities have been proposed or established with a variety of statutory reporting conditions, including the specification of majority<sup>83</sup> or super-majority rules for report adoption<sup>84</sup> and provisions requiring the inclusion of minority viewpoints.<sup>85</sup> In practice, advisory bodies that are not given statutory direction on these matters have tended to work under simple-majority rules for report adoption.

## Report Deadlines

The length of time granted to a congressional commission for the completion of its work product is arguably one of the most consequential decisions in the design of an advisory entity: if the entity is given a short amount of time, the quality of its work product may suffer or it may not be able to fulfill its statutory mandate on time.

On the other hand, if the commission is given a long amount of time to complete its work product, it may undermine one of the primary legislative advantages of a commission, the timely production of expert advice on a current matter. A short deadline may also affect the process of “standing up” a new commission; the selection of commissioners, recruitment of staff, arrangement of office space, and other logistical matters may require expedited action if short deadlines need to be met.

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<sup>78</sup> H.R. 74 § 5(a)(3); H.R. 768 § 3(b); S. 195 § 5(f)(1); S. 386 § 5(f)(1); S. 298 § 8(a).

<sup>79</sup> S. 195 § 5(f).

<sup>80</sup> H.R. 2111 § 2(c)(2)-(4).

<sup>81</sup> H.R. 74 § 11(c)-(d).

<sup>82</sup> H.R. 74 § 11(a); S. 298 § 8(b). It is unclear whether the commission would need the same amount of staff, money, and resources during the continued review period.

<sup>83</sup> For example, see National Commission on the Cost of Higher Education, P.L. 105-18, 111 Stat. 207 (1997); Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, P.L. 110-53, 121 Stat. 501 (2007).

<sup>84</sup> For example, see the proposed Bipartisan Task Force for Responsible Fiscal Action, S. 2063, 110<sup>th</sup> Congress, which would require a 3/4 approval of the commission for the adoption of the final report.

<sup>85</sup> For example, see Human Spaceflight Independent Investigation Commission, P.L. 109-155, 119 Stat. 2941(2005).



S. 195, H.R. 74, and H.R. 2111 would require a final report one year after enactment.<sup>86</sup> S. 298 would require a final report one year after the first meeting of the commission.<sup>87</sup> S. 386 would require final report submission on December 15, 2010.<sup>88</sup> While such a deadline would potentially give the commission over 18 months to complete its work, setting such a date certain for completion of the report could potentially be problematic, as any delay in the passage of the legislation or appointment process would reduce the amount of time the commission has to complete its work product.

H.R. 768 would provide a 90-day deadline.<sup>89</sup> In comparison with other advisory entities established by Congress, a 90-day deadline provides only a short amount of time between the establishment of the panel and the required date of submission. Most advisory entities established by Congress are given longer statutory deadlines for the submission of their reports, ranging from 5 months to three or more years.<sup>90</sup>

## Report Submission

Most commissions created by Congress are required to submit their reports to Congress, and sometimes to the President or executive department or agency heads. The majority of commissions created in the past 20 years (57%) have submitted their work product to both Congress and the President. A substantial number (27%) of commissions have submitted their work to Congress only. The remainder (16%) have submitted their work to both Congress and an executive branch agency.

Of the six proposed commissions, three (H.R. 74, S. 298, and S. 386) are directed to submit their reports to both Congress and the President.<sup>91</sup> The other three (H.R. 768, H.R. 2111 and S. 195) are directed to submit their reports only to Congress.<sup>92</sup>

## Commission Termination

Congressional commissions are usually statutorily mandated to terminate. Termination dates for most commissions are linked to either a fixed period of time after the establishment of the commission, the selection of members, or the date of submission of the commission's final report. Alternatively, some commissions are given fixed calendar termination dates.

S. 195, S. 298, and S. 386 would provide for the commission to terminate 60 days after submission of its final report.<sup>93</sup> H.R. 768 would provide for termination 30 days after submission of the final report.<sup>94</sup> H.R. 2111 would terminate one year after enactment.<sup>95</sup> H.R. 74 would

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<sup>86</sup> S. 195 § 5(f); H.R. 74 § 11(b); H.R. 2111 § 2(c)(2)(C).

<sup>87</sup> S. 298 § 8(a).

<sup>88</sup> S. 386 § 5(g)(1).

<sup>89</sup> H.R. 768 § 7.

<sup>90</sup> See, e.g., The National Commission on the Cost of Higher Education, P.L. 105-18, 111 Stat. 207 (1997) and the Antitrust Modernization Commission, P.L. 107-273, 116 Stat. 1856 (2002).

<sup>91</sup> H.R. 74 § 11(b); S. 298 § 8(a); S. 386 § 5(g)(1).

<sup>92</sup> H.R. 768 § 3(b); S. 195 § 5(f); H.R. 2111 § 2(c)(2)(C).

<sup>93</sup> S. 195 § 5(k); S. 298 § 8(c); S. 386 § 5(h).

<sup>94</sup> H.R. 768 § 8.

provide for the commission to terminate four years after the submission of the final report. This four year period would comprise a “continued review” period, during which the commission would continue to review the subjects investigated by the commission and the governmental response to the final report, with the option to submit additional reports as the commission determines appropriate.<sup>96</sup>

## Commission Powers

Each of the six proposals would provide the proposed commission with a different set of powers. For specific language for each of these powers, please see **Table 5**.

One general issue is *who* is authorized to execute such powers. In some cases, the commission itself is authorized to execute the powers, leaving it up to the commission as a whole to devise rules and procedures for the general use of such power. In other cases, the legislation specifically authorizes the commission to give discretionary power to subcommittees of the commission or individual members.<sup>97</sup> Finally, the legislation itself might grant certain powers to individual members of the commission, such as the chair.<sup>98</sup>

## Hearings and Evidence

All six bills would provide the proposed commission with the power to hold hearings, take testimony, and receive evidence.<sup>99</sup> Five of the commissions would also be provided the power to administer oaths and issue subpoenas for the attendance of witnesses and the production of documents.<sup>100</sup>

## Subpoenas

Of the five bills that would provide the commission with subpoena power, three designate specific requirements for issuance. Both S. 195 and H.R. 74 would provide that a subpoena could only be issued by either (1) agreement of the chair and vice-chair, or (2) the affirmative vote of six (of 10) commission members.<sup>101</sup> H.R. 2111 would allow any member of the commission to issue a subpoena, but only after approval of the House Office of General Counsel.<sup>102</sup> S. 298 and S. 386 do not specify a requirement for issuance; it only states that “the commission” may

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(...continued)

<sup>95</sup> H.R. 2111 § 2(g).

<sup>96</sup> H.R. 74 § 11(c)-(d). It is unclear whether the commission would need the same amount of staff, money, and resources during the continued review period.

<sup>97</sup> For example, see H.R. 768 § 6(b), which states that “any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.” See also S. 298 § 5(h); H.R. 2111 § 2(f)(2).

<sup>98</sup> For example, see H.R. 74 § 6(a)(2)(i)(I), which authorizes the issuance of subpoenas “by agreement of the chairman and vice-chairman.”

<sup>99</sup> H.R. 74 § 6(a)(1); H.R. 768 § 6(a); H.R. 2111 § 2(f)(1); S. 195 § 5(d)(1); S. 298 § 5(a); S. 386 § 5(d)(1)(A).

<sup>100</sup> H.R. 74 § 6(a)(2); S. 195 § 5(d)(1)-(2); S. 298 § 5(a)(1)-(2); S. 386 § 5(d)(1)(B).

<sup>101</sup> H.R. 74 § 6(a)(2)(A)(i); S. 195 § 5(d)(2).

<sup>102</sup> H.R. 2111 § 2(f)(4).

“require, by subpoena” attendance or documents.<sup>103</sup> All four bills would provide substantially similar judicial methods of subpoena enforcement.<sup>104</sup>

## **Administrative Support**

Four of the bills would provide that the commission receive administrative support from specified federal agencies. Three of the bills (H.R. 74, S. 195 H.R. 768) would provide that the Administrator of General Services provide administrative support on a reimbursable basis to the commission.<sup>105</sup> S. 195 and H.R. 74 would further provide that other departments and agencies may provide services, funds, facilities, staff, and other services.<sup>106</sup> S. 298 would provide that the Secretary of the Treasury provide administrative support to the commission, and that other departments or agencies could provide such support as they deem advisable.<sup>107</sup> S. 386 and H.R. 2111 do not specify a source of administrative support.

## **Other Powers**

All six bills would provide that federal agencies provide information to the commission upon request.<sup>108</sup> Five of the bills would also provide the commission with authority to use the U.S. mails in the same manner as any department or agency.<sup>109</sup> Three of the bills would provide the commission with the authority to enter into contracts.<sup>110</sup> Four of the bills would provide the commission with the authority to accept gifts or donations of services or property.<sup>111</sup>

## **Staffing**

### **Director and Commission Staff**

The six proposals would create a variety of staffing arrangements for the proposed commissions. Five of the bills would specifically provide that the commission may hire staff without regard to certain laws regarding the competitive service and pay rates; H.R. 2111 does not specifically exempt the commission from such laws, but may implicitly do so.<sup>112</sup> Three of the proposed commissions would be required to have a staff director;<sup>113</sup> and two others are authorized, but not

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<sup>103</sup> S. 298 § 5(a)(2).

<sup>104</sup> H.R. 74 § 6(a)(2)(B); S. 195 § 5(d)(2); S. 298 § 5(b)(2); S. 386 § 5(d)(2)(B).

<sup>105</sup> H.R. 74 § 6(d)(1); H.R. 768 § 6(e)(1); S. 195 § 5(g).

<sup>106</sup> H.R. 768 § 6(e)(2); S. 195 § 5(d)(5).

<sup>107</sup> S. 298 § 5(e).

<sup>108</sup> H.R. 74 § 6(c); H.R. 768 § 6(c); H.R. 2111 § 2(f)(3); S. 195 § 5(d)(4); S. 298 § 5(d); S. 386 § 5(d)(4).

<sup>109</sup> H.R. 74 § 6(f); H.R. 768 § 6(d); S. 195 § 5(d)(7) S. 298 § 5(g); S. 386 § 5(d)(7).

<sup>110</sup> H.R. 74 § 6(b); S. 195 § 5(d)(3); S. 298 § 5(c); S. 386 § 5(d)(3).

<sup>111</sup> H.R. 74 § 6(e); S. 195 § 5(d)(6); S. 298 § 5(f); S. 386 § 5(d)(7).

<sup>112</sup> H.R. 74 § 8(a)(1); H.R. 768 § 8(b)–(c); S. 195 § 5(j)(1); S. 298 § 5(b); S. 386 § 5(e)(3). H.R. 2111 only specifies that “the commission may appoint and fix the pay of any personnel as the Commission considers appropriate.” H.R. 2111 § 2(e)(1).

<sup>113</sup> H.R. 768 § 8(a); S. 298 § 6(a); S. 386 § 5(e)(1).

required, to hire a director.<sup>114</sup> Five proposals would limit staff salaries (including staff director) to either the maximum basic rate of pay for GS-15 (H.R. 768), level IV of the executive schedule (H.R. 74), or level V of the executive schedule (S. 195, S. 298, S. 386).<sup>115</sup> Three of the bills would specifically designate staff as federal employees for the purposes of certain laws, such as workman's compensation, retirement, and other benefits.<sup>116</sup>

## **Detailees**

Five bills would provide that, upon request, the head of any federal department or agency may detail personnel without reimbursement.<sup>117</sup> H.R. 2111 would allow detailees on a reimbursable basis.<sup>118</sup> As with hiring, it would appear that there are no legal restrictions on any of the proposed commissions from having detailed to it staff members from other agencies or standing committees of the House or Senate.

## **Experts and Consultants**

Four of the bills would provide the proposed commission with the authority to hire experts and consultants under section 3109 of title 5, at a maximum pay rate equal to level IV of the executive schedule.<sup>119</sup> H.R. 2111 would provide authority to hire experts and consultants without a maximum pay cap.<sup>120</sup>

## **Security Clearances**

H.R. 74 would provide that federal agencies and departments shall cooperate with the commission to provide members and staff appropriate security clearances.<sup>121</sup>

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<sup>114</sup> H.R. 74 § 8(a)(1); S. 195 § 5(j)(1).

<sup>115</sup> H.R. 74 § 8(a)(1); H.R. 768 § 8(a)-(b); S. 195 § 5(j)(1); S. 298 § 6(c); S. 386 § 5(e)(3). In 2009, the maximum basic rate of pay for GS-15 is \$127,604, level IV of the executive schedule is \$153,200, and level V of the executive schedule is \$143,500. See Executive Order 13483, "Adjustments of Certain Rates of Pay," 73 Fed. Reg. 78587, Dec. 23, 2008; 5 U.S.C. 5504 (2000). In regard to *who* may be hired as staff, federal law does not appear to prohibit individuals from serving in multiple branches of government (i.e., Legislative Branch and Executive Branch or Independent Agency), nor does the law prohibit staff from serving in multiple positions within the same branch of government. Thus, it would appear that there are no legal restrictions on any of the proposed commissions from hiring staff members from the Treasury Department, the Securities and Exchange Commission (SEC), other agencies, or even other standing committees of the House or Senate. There may be, however, implications on the maximum amount of compensation that can be paid to certain staff members. See 5 U.S.C. 5531 et seq. (2000).

<sup>116</sup> H.R. 74 § 8(a)(2); S. 195 § 5(j)(2); S. 298 § 6(c).

<sup>117</sup> H.R. 74 § 8(b); H.R. 768 § 5(d); S. 195 § 5(j)(2)(B); S. 298 § 6(d); S. 386 § 5(e)(4).

<sup>118</sup> H.R. 2111 § 2(e)(3).

<sup>119</sup> H.R. 74 § 8(e); S. 195 § 5(j)(2)(C); S. 298 § 6(e); S. 386 § 5(e)(5).

<sup>120</sup> H.R. 2111 § 2(e)(2).

<sup>121</sup> H.R. 74 § 10(a).

## Funding and Costs

### Authorized Funding

Three of the bills (H.R. 74, H.R. 768, S. 195) would authorize “such sums as necessary” for the commissions.<sup>122</sup> In addition, H.R. 74 and S. 195 would provide that any appropriated amounts for the commission be available until the termination of the commission.<sup>123</sup> S. 298 does not authorize any funds, instead it states that the Secretary of the Treasury shall provide all amounts necessary to defray costs, up to \$3,000,000.<sup>124</sup> Similarly, S. 386, does not authorize any funds, instead it states that the Secretary of the Treasury shall provide, from money previously appropriated, \$5,000,000.<sup>125</sup> H.R. 2111 does not authorize any funds.

### Costs

It is difficult to estimate the overall cost of any commission. Annual budgets for congressional advisory entities and executive branch federal advisory committees range from tens of thousands of dollars to millions of dollars annually.<sup>126</sup> Overall expenses for any individual advisory entity are dependent on a variety of factors, the most important of which are the number of paid staff and the duration and scope of the commission. Many commissions have few or no full-time staff; others employ large numbers, such as the National Commission on Terrorist Attacks Upon the United States, which had a full-time paid staff of nearly 80.<sup>127</sup> Secondary factors that can affect commission costs include the number of commissioners, how often the commission meets or holds hearings, whether or not the commission travels or holds field hearings, and the number and size of publications the commission produces.

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<sup>122</sup> H.R. 74 § 12(a); H.R. 768 § 9; S. 195 § 5(l).

<sup>123</sup> H.R. 74 § 12(b); S. 195 § 5(l).

<sup>124</sup> S. 298 § 5(e)(1).

<sup>125</sup> S. 386 § 5(d)(5).

<sup>126</sup> For example, the National Commission on Terrorist Attacks Upon the United States received a total of \$15 million in three separate appropriations: an initial \$3 million reprogrammed from the National Foreign Intelligence Program and subsequent appropriations of \$11 million and \$1 million. See Intelligence Authorization Act for FY2003, P.L. 107-306, 116 Stat. 2383 (2002); Emergency Wartime Supplemental Appropriations Act, P.L. 108-11, 117 Stat. 591 (2003); Extension of National Commission on Terrorist Attacks Upon the United States, P.L. 108-207, 118 Stat. 556 (2004).

<sup>127</sup> National Commission on Terrorist Attacks Upon the United States, “How Many People Serve on the Commission Staff?” at <http://govinfo.library.unt.edu/911/about/faq.htm#q4>, visited April 20, 2009.

**Table I. Comparison of Commission Membership Structure**

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Size of Commission Membership	Ten [sec. 5(b)(1)].	Seven [sec. 3(a)].	Ten [sec. 5(b)].	Ten [sec. 4(a)].	Ten [sec. 4(a)].	Five [sec. 2(d)(1)].
Compensation of Committee Members <sup>a</sup>	Executive Schedule Level IV [sec. 5(f)(1)] and travel expenses [sec. 5(f)(2)].	Executive Schedule Level IV [sec. 7(a)] and travel expenses [sec. 7(b)].	Executive Schedule Level IV for non-government (Federal, State, or local) employees [sec. 5(h)(1)];  No additional pay for government (Federal, State, or local) employees or officers [sec. 5(h)(2)]; and  Receive travel expenses [sec. 5(i)].	Executive Schedule Level IV [sec. 9(a)] and travel expenses [sec. 9(b)].	Executive Schedule Level IV [sec. 4(g)]; <sup>b</sup> and  The pensions of Federal retirees will not be affected by service [sec. 4(i)].	Executive Schedule Level I [sec. 2(d)(2)] and travel expenses [sec. 2(d)(4)]; and  Full time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits [sec. 2(d)(3)].

	S. 386	S. 298	S. 195	H.R. 74	H.R. 768	H.R. 2111
Qualifications	<p>In general, individuals appointed to the Commission shall be U.S. citizens having significant experience in such fields as banking, regulation of markets, taxation, finance, economics, and housing [sec. 5(b)(2)(A)]; and</p> <p>No person who is a Member of Congress or an officer or employee of the Federal Government or any State or local government may serve as a member of the Commission [sec. 5(b)(2)(B)].</p>	<p>Sense of Congress that individuals appointed to the Commission should be U.S. citizens with national recognition and significant depth of experience in such fields as governmental regulation, finance, economics, and housing [sec. 3(b)].</p>	<p>Commission members may not be an employee, or an immediate family member of an employee, of a private entity or group of private entities that has received or applied for emergency economic assistance from any Federal financial entity [sec. 5(c)(1)];<sup>c</sup></p> <p>Shall be chosen from among U.S. citizens with national recognition and experience in the operation of U.S. and global financial markets; the safety and soundness of U.S. financial institutions; the use of complex derivatives and other structured financial instruments; or the investigation and prosecution of fraud and other intricate financial crimes [sec. 5(c)(2)]; and</p> <p>Not more than two appointments may be made from among Federal, State, and local government employees [sec. 5(c)(3)].</p>	<p>Individuals appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government [sec. 4(b)(2)]; and</p> <p>Sense of Congress that individuals appointed to the Commission should be prominent U.S. citizens, with national recognition and significant depth of experience in such professions as governmental service, financial services, economics, law, public administration, commerce, and foreign markets [sec. 4(b)(3)].</p>	<p>Members shall have knowledge and expertise in matters to be studied by the Commission, expect that Members shall not have a conflict of interest with any matter the Commission is required to review under section 3 [sec. 4(b)].</p>	N/A

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Partisan Limitations	N/A	N/A	N/A	Not more than 5 members from the same political party [sec. 4(b)(1)].	N/A	N/A

**Source:** S. 386, “Financial Markets Commission,” (111<sup>th</sup> Congress), passed in Senate April 28, 2009; S. 298, “Financial Markets Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 22, 2009; S. 195 “Financial Market Investigation and Reform Commission,” (111<sup>th</sup> Congress), introduced January 9, 2009; H.R. 74 “Financial Oversight Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 6, 2009; H.R. 768 “Commission on Financial Crisis Accountability Act of 2009” (111<sup>th</sup> Congress), introduced January 28, 2009; and H.R. 2111, “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” (111<sup>th</sup> Congress), introduced April 27, 2009.

**Notes:**

- a. Member compensation is based on the daily equivalent of pay associated with prescribed remuneration.
- b. Commission members who are full time officers or employees of the United States are not paid or provided benefits by the Commission.
- c. A private entity or group of private entities that has received or applied for emergency economic assistance from a Federal financial entity is defined in section 2 of S. 195, “Financial Market Investigation and Reform Commission,” (111<sup>th</sup> Congress), introduced January 9, 2009.



**Table 2. Comparison of Commission Appointment Structure**

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Appointment Structure	<p>Two appointed by the majority leader of the Senate;</p> <p>Two appointed by the Speaker of the House;</p> <p>One appointed by the minority leader of the Senate;</p> <p>One appointed by the minority leader of the House;</p> <p>One appointed by the Chair of the Senate Committee on Banking, Housing, and Urban Affairs;</p> <p>One appointed by the ranking member of the Senate Committee on Banking, Housing, and Urban Affairs;</p> <p>One appointed by the chair of the House Committee on Financial Services; and</p> <p>One appointed by the ranking member of the House Committee on Financial Services [sec. 5(b)(1)(A)-(H)].</p>	<p>Two appointed by the President;</p> <p>One appointed by the majority leader of the Senate;</p> <p>One appointed by the Speaker of the House;</p> <p>One appointed by the minority leader of the Senate;</p> <p>One appointed by the minority leader of the House; and</p> <p>One appointed by the Board of Governors of the Federal Reserve System [sec. 3(a)(1)-(6)].</p>	<p>One appointed by the President (serves as Chair);</p> <p>One appointed by the minority leader of the Senate in consultation with the minority leader of the House (serves as vice-chair);</p> <p>Two appointed by the majority leader of the Senate;</p> <p>Two appointed by the minority leader of the Senate;</p> <p>Two appointed by the Speaker of the House; and</p> <p>Two by the minority leader of the House [sec. 5(b)(1)-(6)].</p>	<p>One appointed by the President (serves as Chair);</p> <p>One appointed by the Senate Democratic leader (majority or minority as appropriate) in consultation with the Democratic Party leader in the House (serves as vice chair);</p> <p>Two appointed by the senior member of the Senate leadership of the Democratic Party;</p> <p>Two appointed by the senior member of the House leadership of the Republican Party;</p> <p>Two appointed by the senior member of the Senate leadership of the Republican Party; and</p> <p>Two appointed by the senior member of the House leadership of the Democratic Party [sec. 4(a)(1)-(6)].</p>	<p>Three appointed by the majority leader of the Senate;</p> <p>Three appointed by the Speaker of the House;</p> <p>Three appointed by the minority leader of the Senate; and</p> <p>Two appointed by the minority leader of the House [sec. 4(a)(1)-(4)].</p>	<p>One appointed by the majority leader of the House;</p> <p>One appointed by the minority leader of the House;</p> <p>One appointed by the majority leader of the Senate;</p> <p>One appointed by the minority leader of the Senate; and</p> <p>One appointed by the majority leader of the House and the majority leader of the Senate in consultation with the minority leader of the Senate and the minority leader of the House [sec. 2(d)(1)(A)-(E)].</p>

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Vacancies	Vacancies are filled in the same manner in which the original appointment was made [sec. 5(b)(5)].	Vacancies are filled in the same manner in which the original appointment was made [sec. 3(e)].	Vacancies are filled in the same manner in which original appointment was made [sec. 5(c)(6)].	Vacancies are filled in the same manner in which original appointment was made [sec. 4(c)].	Vacancies are filled in the same manner in which the original appointment was made [sec. 4(d)].	Vacancies are filled in the same manner in which the original appointment was made [sec. 2(d)(6)].
Deadline for Appointment	No specific deadline for appointments. <sup>a</sup>	No specific deadline for appointments. <sup>b</sup>	Not later than 30 days after enactment [sec. 5(c)(4)].	Within 60 days of enactment [sec. 4(b)(4)].	Not later than 30 days after enactment [sec. 4(f)].	No specific deadline for appointments.

**Source:** S. 386, “Financial Markets Commission,” (111<sup>th</sup> Congress), passed in Senate April 28, 2009; S. 298, “Financial Markets Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 22, 2009; S. 195 “Financial Market Investigation and Reform Commission,” (111<sup>th</sup> Congress), introduced January 9, 2009; H.R. 74 “Financial Oversight Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 6, 2009; H.R. 768 “Commission on Financial Crisis Accountability Act of 2009” (111<sup>th</sup> Congress), introduced January 28, 2009; and H.R. 2111, “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” (111<sup>th</sup> Congress), introduced April 27, 2009.

**Notes:**

- a. Section 5(b)(4) states that four or more members of the Commission are needed to select a temporary chair or vice-chair and begin the operations of the Commission, including hiring staff.
- b. Section 3(d) states that four or more members of the Commission are needed to select a temporary chair or vice-chair and begin the operations of the Commission, including hiring staff.

**Table 3. Comparison of Commission Rules of Procedure and Operation**

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Chair Selection	<p>Chair selected jointly by Senate majority leader and Speaker of the House;</p> <p>Vice-chair selected jointly by Senate minority leader and House minority leader [sec. 5(b)(3)(A)]; and</p> <p>The chair and vice-chair may not be from the same political party [sec. 5(b)(3)(B)].</p>	<p>Chair and vice-chair are elected by the members [sec. 3(c)(1)]; and</p> <p>The chair and vice-chair shall not be from the same political party [sec. 3(c)(2)].</p>	<p>Presidential appointee serves as chair; and</p> <p>Joint appointee of the Senate minority leader and the House minority leader serves as vice-chair [sec. 5(b)(1)-(2)].</p>	<p>Presidential appointee serves as chair; and</p> <p>Appointee of the Senate Democratic leader serves as vice-chair [sec. 4(a)(1)].</p>	<p>Designated by the Speaker of the House in consultation with the Senate majority leader and the minority leaders of the House and Senate [sec. 4(e)].</p>	<p>No specific process delineated for chair selection.</p>
Initial Meeting	<p>If four members have been appointed 45 days after enactment, the appointed members may meet and, if necessary, select a temporary chair and vice-chair, who may begin commission operations, including hiring staff [sec. 5(b)(4)].</p>	<p>If four members have been appointed 45 days after enactment, the appointed members may meet and, if necessary, select a temporary chair and vice-chair, who may begin commission operations, including hiring staff [sec. 3(d)].</p>	<p>Not later than 45 days after enactment [sec. 5(c)(5)].</p>	<p>As soon as practicable [sec. 4(b)(5)].</p>	<p>Date designated by the Speaker of the House not later than 30 days after the appointment of all members [sec. 4(k)(1)].</p>	<p>No specific date of first meeting.</p>
Quorum	<p>Six [sec. 5(b)(5)].</p>	<p>Four [sec. 3(e)].</p>	<p>Six [sec. 5(c)(6)].</p>	<p>Six [sec. 4(c)].</p>	<p>Majority of members, but a lesser number may hold hearings [sec. 4(j)].</p>	<p>Four, but a lesser number may hold hearings [sec. 2(d)(5)].</p>

	S. 386	S. 298	S. 195	H.R. 74	H.R. 768	H.R. 2111
Additional Rules of Procedure	N/A	N/A	Commission may establish, by majority vote, any other rules for the conduct of business of the Commission, if such rules are not inconsistent with this Act or other applicable law [sec. 5(c)(7)].	Exempt from the Federal Advisory Committee Act <sup>a</sup> [sec. 7(a)];  Required to hold public hearings and meetings [sec. 7(b)(1) and sec. 7(c)]; and  Required to release public versions of reports [sec. 7(b)(2)].	N/A	Shall meet at the call of the chair or a majority of members [sec. 2(d)(7)].

**Source:** S. 386, “Financial Markets Commission,” (111<sup>th</sup> Congress), passed in Senate April 28, 2009; S. 298, “Financial Markets Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 22, 2009; S. 195 “Financial Market Investigation and Reform Commission,” (111<sup>th</sup> Congress), introduced January 9, 2009; H.R. 74 “Financial Oversight Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 6, 2009; H.R. 768 “Commission on Financial Crisis Accountability Act of 2009” (111<sup>th</sup> Congress), introduced January 28, 2009; and H.R. 2111, “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” (111<sup>th</sup> Congress), introduced April 27, 2009.

**Notes:**

- a. 5 U.S.C. Appendix—Federal Advisory Committee Act; 86 Stat. 770, as amended. For more information on the act see, CRS Report R40520, *Federal Advisory Committees: An Overview*, by Wendy R. Ginsberg.

**Table 4. Comparison of Commission Duties, Reporting Requirements, and Termination**

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
General Duties	<p>Examine the causes of the current financial and economic crisis including the role of specified topic areas; <sup>a</sup></p> <p>Examine the causes of the collapse of each major financial institution that failed (including institutions that were acquired to prevent their failure) or where likely to have failed if not for receipt of exceptional Government assistance from the Department of the Treasury during the period beginning in August 2007 through April 2009;</p> <p>Refer to the Attorney General of the United States and any appropriate State attorney general any person that the Commission finds may have violated the laws of the United States in relation to such crisis;</p>	<p>Examine all causes, domestic and global, of the current financial and economic crisis in the United States, including the collapse of major financial and commercial firms and the deterioration of the credit and housing markets;</p> <p>Investigate the role in the financial and economic crisis of: (A) the SEC, (B) nationally recognized statistical rating organizations, (C) the CFTC, (D) Fannie Mae and Freddie Mac, (E) trading facilities for commodities, (F) the Federal banking agencies, (G) any financial or commercial corporation, partnership, or entity, and any other governmental or non-governmental entity;</p>	<p>Examine and report on the facts and causes of the collapse of the Nation's financial system and credit crisis;</p> <p>Ascertain, evaluate, and report on the extent to which Federal entities had information on financial practices that they knew or should have known were risky or reckless, and posed a threat to the well being of the Nation's financial systems;</p> <p>Build on any investigations by the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services, by other congressional committees and the Federal banking agencies, and the SEC to avoid duplication of effort;</p> <p>Make a full and complete report of the reason for the financial system collapse; and</p>	<p>Conduct an investigation of: (A) relevant facts and circumstances relating to the financial crisis of 2008, including any legislation, Executive order, regulation, plan, policy, practice or procedure; and (B) may include facts and circumstances relating to government sponsored enterprises (Fannie Mae and Freddie Mac), the stock market, the housing market, credit rating agencies, the financial services sector (including hedge funds, private equity and insurance industry), the role of congressional oversight and resource allocation, and other areas of the public and private sectors determined by the commission; and</p>	<p>Conduct a study of the financial system in the United States including examining the current financial crisis, its causes and its impact on the Federal deficit and tax revenues, including— (1) regulation and transparency, (2) fraud and abuse, (3) the fairness and equity of the tax treatments of financial products and arrangements, and (4) the role of any and all participants in the financial services industry that the Commission deems necessary, including (but not limited to) the Department of Housing and Urban Development; the Department of Treasury; the SEC; Fannie Mae; Freddie Mac; the Board of Governors of the Federal Reserve System (and its banks and leadership); the executive, legislative and judicial branches of government; the FDIC; and the CFTC [sec. 3(a)].</p>	<p>Review actions leading up to the 2008 breakdown in the financial markets and failures in the regulatory system and submit reports to Congress including all relevant events, persons, entities and data leading up to the breakdown in the financial markets through December 2008;</p> <p>Study the impact of public and private actions on financial markets and financial institutions;</p> <p>Study the extent to which the information made available on transactions contributed to market transparency; and</p> <p>Study the effectiveness of efforts, regulatory authority, and programs from the standpoint of minimizing risk to investors and tax payers [sec. 2(c)].</p>

	S. 386	S. 298	S. 195	H.R. 74	H.R. 768	H.R. 2111
General Duties (con't)	<p>Review and build upon the record of the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services, other Congressional committees, the GAO, and other legislative panels with respect to the current financial and economic crisis [sec. 5(c)];</p> <p>Chair shall, not later than 120 days after submission of the final reports, appear before the Senate Banking, Housing, and Urban Affairs Committee and the House Financial Services Committee [sec. 5(g)(3)]; and</p> <p>Consult with the Senate Banking, Housing, and Urban Affairs Committee and the House Financial Services Committee and may consult with other committees of Congress, for purposes of informing Congress on the work of the Commission [sec. 5(g)(4)].</p>	<p>Refer to the Attorney General of the United States and any appropriate State attorney general any person that the Commission finds may have violated the laws of the United States [sec. 4].</p>	<p>Report findings, conclusions, and legislative and regulatory recommendations to the President and Congress [sec. 5(a)].</p>	<p>Identify, review, and evaluate the lessons learned from the financial crisis of 2008, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and non-governmental entities, relative to detecting, preventing, and responding to such financial crises [sec. 5(a)(1) and (2)].</p>		

	S. 386	S. 298	S. 195	H.R. 74	H.R. 768	H.R. 2111
<b>Reports</b>						
Content	At the discretion of the chair, the report may include reports or specific findings on any financial institution examined by the Commission [sec. 5(g)(2)].	Optional interim reports [sec. 8(b)].  Final report contains findings and conclusions on: (1) the causes of the current financial and economic crisis in the United States; and (2) recommendations for statutory and regulatory changes as a majority of Commission members find necessary to prevent a financial and economic crisis comparable to the current financial and economic crisis in the United States [sec. 8(a)(1)-(2)].	Two interim reports to Congress that discuss Commission progress [sec. 5(f)].	Optional interim report(s) [sec. 11(a)] and required final report [sec. 11(b)] which both contain findings, conclusions, and recommendations for corrective measures as have been agreed upon by a majority of Commission members	Report shall include a detailed statement of findings, conclusions, and recommendations of the Commission and shall address the following: (1) the causes of the current financial crisis and how this kind of crisis can be avoided in the future; (2) the stage the current financial crisis is in and what can be expected in subsequent stages; (3) the impact of the current financial crisis on Federal revenues; (4) the extent to which the financial regulatory structure should be restructured; and (5) the tax treatment of financial products and arrangements and how to make them more fair and equitable [sec. 3(b)].  Make recommendations for an investors bill of rights [sec. 3(c)].	Regular monthly progress reports on finding and conclusions of the Commission [sec. 2(c)(2)];  Final report with a detailed description of the findings and conclusions of the Commission recommendations for legislative or administrative action [sec. 2(c)(2)(C)];  Special report on corporate abuse of tax payer funds to Congress analyzing the current state and effectiveness of the regulatory system in overseeing participants in the financial system and protecting consumers [sec. 2(c)(3)]; and  Special report on the fiduciary negligence, fraudulent behavior, poor corporate governance, obstructionism, or media manipulation by corporate offices and elected or appointed government officials [sec. 2(c)(4)].

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Deadline(s)	December 15, 2010 [sec. 5(g)(1)].	Final report submitted not later than one year after the date of the first meeting [sec. 8(a)].	Final report submitted 12 months after enactment [sec. 5(f)].	Final report submitted no later than 12 months after enactment [sec. 11(b)].	Final report submitted not later than 90 days after the date on which members are first appointed [sec. 7].	Final report submitted as last monthly report prior to termination [sec. 2(c)(2)(C)].
Submission	President and Congress [sec. 5(g)(1)].	President and Congress [sec. 8(a) and (b)].	Congress [sec. 5(f)].	President and Congress [sec. 5(a)(3)].	President and Congress [sec. 7].	Congress [sec. 2(c)(2)(A)].
Termination	60 days after submission of final report [sec. 5(h)(1)].	60 days after submission of the final report [sec. 8(c)].	60 days after submission of the final report [sec. 5(k)].	Four years after the date on which the final investigate report is submitted [sec. 11(d)].	30 days after submission of final report [sec. 8].	One year after enactment. Congress may extend on an annual basis for not more than one year at a time [sec. 2(g)].

**Source:** S. 386, “Financial Markets Commission,” (111<sup>th</sup> Congress), passed in Senate April 28, 2009; S. 298, “Financial Markets Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 22, 2009; S. 195 “Financial Market Investigation and Reform Commission,” (111<sup>th</sup> Congress), introduced January 9, 2009; H.R. 74 “Financial Oversight Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 6, 2009; H.R. 768 “Commission on Financial Crisis Accountability Act of 2009” (111<sup>th</sup> Congress), introduced January 28, 2009; and H.R. 2111, “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” (111<sup>th</sup> Congress), introduced April 27, 2009.

**Notes:**

- a. Sec. 5(c)(1)(A)-(V) lists specific functions (duties) of the commission.



**Table 5. Comparison of Commission Powers**

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Hearings and Evidence	Can hold hearings, take testimony, receive evidence and administer oaths [sec. 5(d)(1)(A)].	Can hold hearings, take testimony, receive evidence, and administer oaths [sec. 5(a)(1)].	Can hold hearings, take testimony, and collect evidence [sec. 5(d)(1)].	Can hold hearings, take testimony, receive evidence, and administer oaths [sec. 6(a)(1)].	Can hold hearings, take testimony, and receive evidence [sec. 6(a)].	Can hold hearings, take testimony, receive evidence and administer oaths [sec. 2(f)(1)].
Subpoenas	Can issue subpoenas [sec. 5(d)(2)]; and  Can require the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents by subpoena [sec. 5(d)(1)(B)].	Can issue subpoenas [sec. 5(b)]; and  Can require the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents by subpoena [sec. 5(a)(2)].	Can issue subpoenas under the signature of the chair or any member designated by a majority of the Commission members, by agreement of the chair and vice-chair, or by the affirmative vote of six members [sec. 5(d)(2)].	Can issue subpoenas [sec. 6(a)(2)]; and  Can require the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents by subpoena [sec. 6(a)(1)(B)].	N/A	Can issue subpoenas subject to approval by the House Office of General Council [sec. 2(f)(4)].
Administrative Support	N/A	Provided by the Secretary of the Treasury [sec. 5(e)(1)(A)] up to \$3,000,000 [sec. 5(e)(1)(B)]; and  Other departments and agencies are authorized to provide services, funds, facilities, staff, and other support services [sec. 5(e)(2)].	Provided by the Administrator of General Services on a reimbursable basis, including human resource management, budget, leasing, accounting, and payroll services [sec. 5(g) and sec. 5(d)(5)]; and  Other Federal agencies are authorized to provide services, funds, facilities, and staff [sec. 5(d)(5)].	Provided by the Administrator of General Services on a reimbursable basis [sec. 6(d)(1)]; and  Other departments and agencies may provide services, funds, facilities, staff, and other support services [sec. 6(d)(2)].	Provided by the Administrator of General Services on a reimbursable basis [sec. 6(e)].	N/A

	S. 386	S. 298	S. 195	H.R. 74	H.R. 768	H.R. 2111
<b>Other Powers</b>						
Gifts	May accept, use, and dispose of gifts or donations of services or property [sec. 5(d)(6)].	May accept, use, and dispose of gifts or donations of services or property [sec. 5(f)].	May accept, use, and dispose of gifts or donations of services or property [sec. 5(d)(6)].	May accept, use, and dispose of gifts or donations of services or property [sec. 6(e)].	N/A	N/A
Postal Service	May use the U.S. mails in the same manner and under the same conditions as departments and agencies [sec. 5(d)(7)].	May use the U.S. mails in the same manner and under the same conditions as departments and agencies [sec. 5(g)].	May use the U.S. mails in the same manner and under the same conditions as departments and agencies [sec. 5(d)(7)].	May use the U.S. mails in the same manner and under the same conditions as departments and agencies [sec. 6(f)].	May use the U.S. mails in the same manner and under the same conditions as departments and agencies [sec. 6(d)].	N/A
Contract Authority	May enter into contracts [sec. 5(d)(3)].	May enter into contracts [sec. 5(c)].	May enter into contracts [sec. 5(d)(3)].	May enter into contracts [sec. 6(b)].	N/A	N/A
Information From Federal Agencies	May gather information directly from any department, agency, or instrumentality of the United States, including confidential materials, upon request [sec. 5(d)(4)(A)]; and  Sense of Congress that Commission should seek testimony or information from principles and other representatives of government agencies and private entities that were significant participants in the U.S. and global financial and housing markets [sec. 5(d)(4)(B)].	May gather information directly from any department, agency, or instrumentality of the United States upon request [sec. 5(d)].	May obtain information from Federal departments and agencies [sec. 5(d)(4)].	May secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality upon request of a majority of members [sec. 6(c)(1)]; and  Information received is handled consistent with applicable statutes, regulations, and Executive orders [sec. 6(c)(2)].	Upon the request of the chair, may secure information directly from any agency [sec. 6(c)].	May secure directly from any department or agency of the U.S. information necessary [sec. 2(f)(3)(A)]; and  Upon request of the chair, the head of any department or agency shall furnish information [sec. 2(f)(3)(B)].

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Delegation of Power	Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take [sec. 5(d)(8)].	Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take [sec. 5(h)].	N/A	N/A	Any member or agent may, if authorized, take any action which the commission is authorized to take [sec. 6(b)].	Any member or agent may, if authorized, take any action which the commission is authorized to take [sec. 2(f)(2)].

**Source:** S. 386, “Financial Markets Commission,” (111<sup>th</sup> Congress), passed in Senate April 28, 2009; S. 298, “Financial Markets Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 22, 2009; S. 195 “Financial Market Investigation and Reform Commission,” (111<sup>th</sup> Congress), introduced January 9, 2009; H.R. 74 “Financial Oversight Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 6, 2009; H.R. 768 “Commission on Financial Crisis Accountability Act of 2009” (111<sup>th</sup> Congress), introduced January 28, 2009; and H.R. 2111, “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” (111<sup>th</sup> Congress), introduced April 27, 2009.

Table 6. Comparison of Commission Staffing

	S. 386	S. 298	S. 195	H.R. 74	H.R. 768	H.R. 2111
Hiring	<p>Director appointed by the chair and vice-chair, acting jointly [sec. 5(e)(1)];</p> <p>Chair and vice-chair may jointly appoint additional personnel as necessary [sec. 5(e)(2)]; and</p> <p>Staff appointment is made without regard to title 5 <i>United States Code</i> <sup>a</sup> [sec. 5(e)(3)].</p>	<p>Director appointed by the chair and co-chair, acting jointly [sec. 6(a)];</p> <p>Chair and co-chair, acting jointly, may appoint additional personnel as necessary [sec. 6(b)]; and</p> <p>Staff appointment is made without regard to title 5, <i>United States Code</i> <sup>a</sup> [sec. 6(c)].</p>	<p>Chair, in consultation with the vice-chair, in accordance with Commission rules, may appoint and fix the compensation of a staff director and such other personnel as may be necessary, without regard to title 5, <i>United States Code</i> <sup>a</sup> [sec. 5(j)(1)]; and</p> <p>Commission personnel are considered federal employees under 5 U.S.C. § 2105 [sec. 5(j)(2)(A)].</p>	<p>Chair, in consultation with vice-chair and Commission rules, may appoint and fix the compensation of a staff director and such other personnel as may be necessary, without regard to title 5, <i>United States Code</i>; <sup>a</sup></p> <p>No pay rate may exceed Executive Schedule level V [sec. 8(a)(1)];</p> <p>Commission personnel are considered federal employees under 5 U.S.C. § 2105 [sec. 8(a)(2)(A)]; and</p> <p>Staffing provisions do not apply to commission members [sec. 8(a)(2)(B)].</p>	<p>Director appointed by the chair [sec. 5(a)];</p> <p>Up to three additional staff appointed by the chair [sec. 5(b)]; and</p> <p>Director and staff appointed without regard to title 5, <i>United States Code</i> <sup>a</sup> [sec. 5(c)].</p>	<p>May appoint and fix the pay of any personnel [sec. 2(e)(1)].</p>
Staff Salaries	<p>Not to exceed Executive Schedule Level V [sec. 5(e)(3)].</p>	<p>Not to exceed Executive Schedule Level V [sec. 6(c)].</p>	<p>Not to exceed Executive Schedule Level V [sec. 5(j)(1)].</p>	<p>Not to exceed Executive Schedule Level V [sec. 8(a)(1)].</p>	<p>Director: Maximum of GS-15 [sec. 5(a)]; and</p> <p>Staff: Maximum of GS-15 [sec. 5(b)].</p>	<p>No specific mention of staff salary.</p>

	S. 386	S. 298	S. 195	H.R. 74	H.R. 768	H.R. 2111
Detailees	Without reimbursement from any Federal department or agency; and  Detailees retain the rights, status, and privileges of his or her regular employment without interruption [sec. 5(e)(4)].	Without reimbursement from any Federal department or agency; and  Detailees retain the rights, status, and privileges of his or her regular employment without interruption [sec. 6(d)].	Without reimbursement from any Federal department or agency; and  Detailees retain the rights, status, and privileges of his or her regular employment without interruption [sec. 5(j)(2)(B)].	Without reimbursement from any Federal department or agency; and  Detailees retain the rights, status, and privileges of his or her regular employment without interruption [sec. 8(b)].	Without reimbursement from any Federal department or agency [sec. 5(d)].	On a reimbursable basis from any Federal department or agency [sec. 2(e)(3)].
Experts and Consultants	Authorized to procure the services of experts and consultants in accordance with 5 U.S.C. § 3109 <sup>b</sup> at rates not to exceed Executive Schedule Level IV [sec. 5(e)(5)].	Authorized to procure the services of experts and consultants at rates not to exceed Executive Schedule Level IV [sec. 6(e)].	Authorized to procure the services of experts and consultants at rates not to exceed Executive Schedule Level IV [sec. 5(j)(2)(C)].	Authorized to procure the services of experts and consultants at rates not to exceed Executive Schedule Level IV [sec. 8(c)].	N/A	Authorized to procure temporary and intermittent services under 5 U.S.C. § 3109(b) <sup>b</sup> [sec. 2(e)(2)].
Other	N/A	N/A	Shall issue rules to manage or prohibit conflicts of interest involving its members, staff, consultants, and any others providing assistance [sec. 5(e)].	Appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing the Commission Members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information without the appropriate security clearances [sec. 10].	N/A	N/A

**Source:** S. 386, “Financial Markets Commission,” (111<sup>th</sup> Congress), passed in Senate April 28, 2009; S. 298, “Financial Markets Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 22, 2009; S. 195 “Financial Market Investigation and Reform Commission,” (111<sup>th</sup> Congress), introduced January 9, 2009; H.R. 74 “Financial Oversight Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 6, 2009; H.R. 768 “Commission on Financial Crisis Accountability Act of 2009” (111<sup>th</sup> Congress), introduced January 28, 2009; and H.R. 2111, “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” (111<sup>th</sup> Congress), introduced April 27, 2009.

**Notes:**

- a. Title 5, *United States Code*, governs appointments in the competitive service.
- b. 5 U.S.C. § 3109 governs the hiring of experts and consultants on a temporary or intermittent basis by the Federal government.

**Table 7. Comparison of Commission Funding**

	<b>S. 386</b>	<b>S. 298</b>	<b>S. 195</b>	<b>H.R. 74</b>	<b>H.R. 768</b>	<b>H.R. 2111</b>
Funding Authorized	\$5,000,000 transferred from existing appropriations from the Department of the Treasury [sec. 5(d)(5)].	Up to \$3,000,000 transferred from the Department of the Treasury [sec. 5(e)(2)].	Such sums as necessary [sec. 5(l)].	Such sums as necessary [sec. 12(a)].	Such sums as necessary [sec. 9].	No mention of funding.
Duration of Availability	Available until expended or termination of Commission [sec. 5(d)(5)].	N/A	Without fiscal year limitation until Commission termination [sec. 5(l)].	Until termination [sec. 12(b)].	N/A	N/A

**Source:** S. 386, “Financial Markets Commission,” (111<sup>th</sup> Congress), passed in Senate April 28, 2009; S. 298, “Financial Markets Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 22, 2009; S. 195 “Financial Market Investigation and Reform Commission,” (111<sup>th</sup> Congress), introduced January 9, 2009; H.R. 74 “Financial Oversight Commission Act of 2009” (111<sup>th</sup> Congress), introduced January 6, 2009; H.R. 768 “Commission on Financial Crisis Accountability Act of 2009” (111<sup>th</sup> Congress), introduced January 28, 2009; and H.R. 2111, “Congressional Commission on Financial Accountability and Preparedness Act of 2009,” (111<sup>th</sup> Congress), introduced April 27, 2009.

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